

Decision 01-12-011 December 11, 2001

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Teligent Services, Inc. (U-5803-C)
For Emergency Authority to Discontinue The
Provision Of Local Exchange Service.

Application 01-11-024
(November 16, 2001)

**OPINION GRANTING AUTHORITY TO DISCONTINUE
THE PROVISION OF LOCAL EXCHANGE SERVICE**

Summary

By this decision, the Commission grants Teligent Services, Inc. (Teligent) authorization to discontinue providing facilities-based local exchange service to its business customers in the Los Angeles market area.

Background

Teligent requests authority to discontinue providing facilities-based local exchange to its business customers¹ in the Los Angeles market area. Because of reduced financial resources, on December 15, 2001, Teligent will no longer have sufficient funds available to continue provisioning facilities and operating its business local exchange service in the Los Angeles market area, which includes the Ventura area.

¹ Teligent does not currently offer residential service to customers. Approximately 645 business customers in California will be affected by the discontinuance.

On May 21, 2001, Teligent filed for protection under Chapter 11 of the U.S. Bankruptcy Code in order to reorganize its operations and financial structure.² At that time, it was Teligent's intent to reorganize its operations in bankruptcy in order to provide uninterrupted service to its customers.

In Decision (D.) 01-10-062 on October 25, 2001, the Commission granted Teligent authority to discontinue the provision of certain local exchange services in the Sacramento and San Francisco market areas, and also authorized the consummation of a Chapter 11 "Re-Emergence" plan filed that would allow Teligent to emerge from bankruptcy as a going concern through an entity presently named TAC (Teligent Acquisition Corp.). As Teligent indicated in its "Re-Emergence" plan filed with the Commission, this plan was subject to the completion of necessary financing, the conclusion of Chapter 11 bankruptcy auction and approval by the bankruptcy court through issuance of a Sale Order to TAC.

As noted in the application, TAC has been unable to complete the financing necessary to fund all of Teligent's core business operations at this time, particularly Teligent's facilities-based retail local and Internet service operations. Consummation of the transaction and approval by the bankruptcy court continues to be delayed. By December 15, 2001, Teligent will almost certainly have insufficient funds available to continue its current retail local operations in the Los Angeles market area³. Because it has no other sources of funding at this

² See Case No. 01-12974 (SMB) (Bankr. S.D.N.Y.) On the same day, Teligent notified this Commission of its filing by letter and facsimile.

³ Teligent will continue to provide and offer other facilities-based wireless services, including private line, transport and wholesale services in addition to resold services.

time, Teligent believes it has no alternative but to seek emergency authority to discontinue these local services in the Los Angeles market area no later than December 15, 2001.

Teligent has been diligent in providing notice to its affected customers. Teligent submits that because of the prior correspondence with its customers related to Chapter 11, and the actions it has taken with respect to other California markets, its California customers should not be surprised or caught off guard by Teligent's need to discontinue service at this time. Customers currently affected by Teligent's proposed service discontinuance will have received at least three (3) separate written notices prior to any actual discontinuance of service. As noted previously, on May 21, 2001, Teligent sent a letter to every one of its customers, including its California customers, notifying them of the Chapter 11 filing and advising them that if any services that Teligent currently provided to them were to be subsequently affected, they would receive at least 30 days' notice to find another service provider. On or about November 13, 2001, a second letter was mailed to Teligent's local exchange and Internet service customers in the Los Angeles market notifying them of Teligent's need to discontinue these services and of the filing of this application, A.01-11-024, seeking authorization to discontinue. In addition, Teligent submits that when it is authorized by the Commission to cease the provision of local service by the December 15, 2001 date, it will mail another notice to affected customers to ensure that these customers are well aware of the disconnection date, are taking appropriate steps to obtain new service and have the information necessary to contact Teligent customer service should they require any further guidance or have any questions regarding transitioning to an alternative service provider.

Teligent sent a letter to the assigned Administrative Law Judge on December 10, 2001 further detailing its notice provisions to its customers. This

letter was followed by a formal pleading filed with the Commission on the morning of December 11, 2001 containing the same information.

In that pleading Teligent demonstrates that it has met and has exceed all the requirements of D.97-06-096 and Pub. Util. Code § 2889.2 for a telecommunications utility desiring to discontinue service.

Teligent submits that it has been working diligently with affected customers to help them transition to new service providers and will continue to do so. Teligent has been forced to discontinue certain services to locations in California and other parts of the country over the past several months and in all cases where customers have sought Teligent's assistance with their transition, this assistance has been provided successfully.

In spite of its need to discontinue these services at this time, Teligent says that it is not seeking to cancel or modify its certificate of public convenience and necessity. Teligent intends to continue to provide and offer its other facilities-based fixed wireless services, including private line, transport and wholesale services, in addition to resold services throughout California. Teligent remains hopeful that at the conclusion of its Chapter 11 reorganization process, TAC will be in a position to commence the rebuilding of these local and Internet services networks in California markets in a more efficient and cost-effective manner so that customers in these markets can once again receive these competitive services.

Notice of the filing of this application appeared in the Commission's Daily Calendar on November 26, 2001 and November 30, 2001 noticing the shortened

protest and/or response period⁴. In Resolution ALJ 176-3076, dated November 29, 2001, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests or responses have been received.

Discussion

There appears to be no question that Teligent will be unable to continue to provide service to its Los Angeles market area local exchange business customers after December 15, 2001. We authorize Teligent to discontinue its provision of interconnected fixed-wireless facilities-based local service to its California customers in the Los Angeles market. D.97-06-096 imposes notice requirements on carriers seeking to withdraw service. Teligent has demonstrated that it has satisfied these requirements through its written communications to customers on: (1) May 21, 2001, noticing the Chapter 11 petition; and (2) November 13, 2001, noticing its application to discontinue providing certain services. In addition, Teligent has promised that, upon approval of this application, it will mail another notice to its affected customers to ensure that these customers are aware of the disconnection date, are taking appropriate steps to obtain new service and have the information necessary to contact Teligent customer service should they require any further assistance in obtaining an alternate service provider.

Under General Order (GO) 96-A Section XIV, the carrier must obtain authority from the Commission before withdrawing service. We note that in this circumstance, Teligent's precarious financial situation has compelled it to

⁴ By the Administrative Law Judge's Ruling of November 27, 2001, the protest period was shortened. Protests and/or responses were due on December 4, 2001.

discontinue providing certain services for which it will no longer have facilities as of December 15, 2001.

This application is an uncontested matter in which the decision grants the requested relief. Therefore, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is waived.

Findings of Fact

1. On May 21, 2001, Teligent filed a voluntary petition for protection under Chapter 11 of the U. S. Bankruptcy Code, and notified its customers in writing about the filing.

2. On or about November 13, 2001, Teligent advised its California customers by letter that it would seek authorization to discontinue providing certain facilities-based local and data services in the Sacramento and San Francisco market areas.

3. As of December 15, 2001, Teligent will no longer have the facilities to provide interconnected fixed-wireless local and data services to its California customers in the Los Angeles market.

4. Teligent plans to continue offering and providing point-to-point private fixed-wireless circuits as well as wholesale offerings and resale long distance service to customers in its California market areas.

5. Teligent, through TAC, and at the conclusion of the bankruptcy proceeding, hopes to commence rebuilding its local and Internet services networks to once again offer local exchange services.

6. Notice of this application appeared in the Daily Calendar on November 26, 2001 and November 30, 2001, noticing shortened response/protest period.

7. The protest period was shortened for this application.

8. No protests or responses have been filed for this application.

Conclusions of Law

1. Teligent's California customers received adequate and timely notice of its financial situation as well as its federal and state applications to discontinue providing interconnected fixed-wireless facilities-based local and data services to the Los Angeles market area.
2. Teligent should be authorized to discontinue providing interconnected fixed-wireless facilities-based local and data services to the Los Angeles market area.
3. This decision should be effective immediately in order to prevent and/or minimize service disruptions for current Teligent customers.

O R D E R

IT IS ORDERED that:

1. Teligent Services, Inc. is authorized to discontinue providing interconnected fixed-wireless facilities-based local and data services to its California customers in Los Angeles market area.
2. Until December 28, 2001, Teligent shall continue to work diligently with its affected customers to ensure a transition to new service providers.
3. Application 01-11-024 is closed.

This order is effective today.

Dated December 11, 2001, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
RICHARD A. BILAS
CARL W. WOOD
GEOFFREY F. BROWN

Commissioners